

Beck & Ackerman

A Professional Corporation

Four Embarcadero Center ♦ Suite 760 ♦ San Francisco, CA 94111 ♦ (415) 263-7300 ♦ FAX: (415) 263-7301

Jeffrey F. Beck
(415) 263-7302

January 9, 1996

Via Federal Express

William F. Caton, Acting Secretary
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
JAN 10 1996
FCC MAIL ROOM
DOCKET FILE COPY ORIGINAL

Re: Reply Comments on November 8, 1996, Joint Board
Recommended Decision on Universal Service Support Issues
CC Docket No. 96-45
Our File No. 8323-6734-3

Dear Mr. Caton:

Enclosed for filing please find an original and four copies of the reply comments of a group of Small Western LECs in response to the November 8, 1996, Joint Board Recommended Decision on Universal Service Support Issues in the captioned docket.

Copies of this document are being mailed as directed by the FCC's Public Notice of November 18, 1996 to the service list attached to that notice. Copies are also being addressed to each Commissioner and to the International Transcription Service.

Sincerely,

BECK & ACKERMAN

J.F. Beck
Jeffrey F. Beck

JFB:ncg
6734028.ltr
Enclosures

No. of Copies rec'd
List ABCDE

024

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED
JAN 10 1997
FCC MAIL ROOM

In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

REPLY COMMENTS

OF

**EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMAN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
THE SISKIYOU TELEPHONE COMPANY
THE VOLCANO TELEPHONE COMPANY**

**ON NOVEMBER 8, 1996, JOINT BOARD RECOMMENDED DECISION
ON UNIVERSAL SERVICE SUPPORT ISSUES**

Dated: January 10, 1997

Jeffrey F. Beck
Jillisa Bronfman
BECK & ACKERMAN
Four Embarcadero Center, Suite 760
San Francisco, CA 94111
415/263-7300 (telephone)
415/263-7301 (facsimile)

Attorneys for Commenting Parties

ssion

RECEIVED
JAN 10 1997
FEDERAL RESERVE

Docket No. 96-45

CC Docket No. 96-45

RECEIVED
JUN 10 1967
U.S. AIR FORCE
96-45

RECEIVED
JAN 10 1967
U.S. AIR FORCE
96-45

RECEIVED
JAN 10 1967
U.S. AIR FORCE
96-45

no model has been created that has been shown to capture small LEC operating costs accurately.

In reviewing the comments of other commenting parties, the Small Western LECs have found no party who has demonstrated that the 1996 Act either authorizes or permits this commission to adopt the Joint Board's recommendations in these areas. Many parties have supported adoption of the recommendations on these subjects by advancing policy arguments, but no party has demonstrated consistency of the order with the statute.

The filed comments of many other parties have supported the analysis presented by the Small Western LECs in their opening comments. These parties include industry groups such as The Rural Telephone Coalition, USTA and other trade associations, groups of rural LECs and consultants representing rural LECs. In addition to demonstrating specific inconsistencies between the Joint Board's recommendations and the 1996 Act, these commenting parties also emphasized the need for continuation of universal service support for small LECs based upon all of the costs that the carrier of last resort regularly incurs in fulfilling its universal service obligations.

One of the key points raised in the Opening Comments of the Small Western LECs was also supported by Comments filed by a non-industry source, in the Comments filed by the U. S. Small Business Administration ("SBA"). The SBA Comments explored the statute and its legislative background in the course of demonstrating both the illegality and the folly inherent in the proposal to eliminate support for telecommunications facilities and services provided to rural small businesses.

In general, the filed comments of parties supporting the positions of the Small Western LECs emphasized the need to support the actual costs of rural telecommunications infrastructure

and service. Contrary comments focused on one or more definitions of “support” supposedly justified by considerations of economic theory. When considering the circumstances of providing universal service in areas served by small, rural LECs, however, the Commission may safely put aside issues of economic orthodoxy and the “battle of experts.” In the case of small LECs, it is simply not necessary to determine which of the highly-qualified economists retained by various parties to the proceeding actually has found the holy grail, let alone whether the holy grail is actually a free lunch. The simple fact is that universal service is not and never will be an output of an economic model or of a telecommunications system based solely on competition.

Universal service is a political concept rather than an economic concept. A free market will avoid serving “unprofitable” areas or will only serve them at substantially increased prices. The 1996 Act has specifically determined that rural areas shall have comparable services at comparable rates. Universal Service thus defined will not be provided solely by competition-- it will, instead be provided under a system of regulatory intervention that must be consistent with the statutory requirements. The true “linkage” between universal service and competition in the 1996 Act is the fact that Congress felt the need to mandate specific universal service standards as it opened markets to competition, in recognition of the fact that a purely competitive market would focus on profitable service opportunities and ignore the need to serve high-cost areas at “comparable” rates.

The provisions of the 1996 Act that are particular to "Rural Telephone Companies" furnish clear guidance on universal service policy issues affecting Rural LECs. The Commission should be mindful of the need for a simple, fair and direct method of achieving the statutory goals of supporting the infrastructure necessary to maintain quality standards of service

within reasonably comparable rate levels. The Opening Comments of these Small Western LECs demonstrated several areas in which the Joint Board's recommendations are not consistent with the statutory requirements. The statute is straightforward and understandable, and the Commission's universal service program should reflect the legislative judgment in this critical policy area.

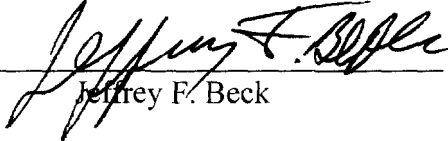
Dated: January 10, 1997

Respectfully submitted,

EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMAN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
THE SISKIYOU TELEPHONE COMPANY
THE VOLCANO TELEPHONE COMPANY

By Their Attorneys

BECK & ACKERMAN


Jeffrey F. Beck